

1 **STATE OF GEORGIA**  
2 **COUNTY OF FULTON**  
3 **CITY OF SOUTH FULTON**

ORD2019-030

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5  
6 **AN ORDINANCE PROMOTING PUBLIC SAFETY, DECREASING PUBLIC**  
7 **NUISANCES, AMENDING TITLE 6, HEALTH AND SANITATION OF THE CITY CODE**  
8 **OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES**  
9

10 **(Sponsored by Councilpersons Jackson and Rowell)**  
11

12 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly  
13 organized and existing under the laws of the State of Georgia;  
14

15 **WHEREAS**, the duly elected governing authority of the City, is the Mayor and  
16 Council thereof ("City Council");

17 **WHEREAS**, pursuant to the City Charter Section 3.10(b), the City Council is  
18 authorized to adopt ordinances it deems necessary, expedient, or helpful for the health,  
19 welfare, sanitation, comfort, and well-being of the inhabitants of the city;  
20

21 **WHEREAS**, that shopping carts continue to litter public rights-of-way, abandoned  
22 by shoppers and owners of the shopping centers who own and are responsible for said  
23 carts;  
24

25 **WHEREAS**, the City Council find said abandoned shopping carts are a public  
26 nuisance and dangerous to the public health, safety and welfare of the pedestrians and  
27 vehicles on the public rights-of-way;  
28

29 **WHEREAS**, the City finds it to be in the public interest and for the health, welfare,  
30 sanitation, comfort, and well-being of the City and its inhabitants to adopt the provisions  
31 herein regulating the abandonment of shopping carts on public rights-of-way.  
32

33 **NOW THEREFORE, THE COUNCIL OF THE CITY OF SOUTH FULTON**  
34 **HEREBY ORDAINS** as follows:  
35

36 **Section 1.** Title 6, Health and Sanitation, of the City of South Fulton Code of  
37 Ordinances is hereby amended to create a new Chapter 5, Abandoned Shopping Carts,  
38 which shall read as follows:  
39

40 **TITLE 6. HEALTH AND SANITATION.**  
41

42 **CHAPTER 5. ABANDONED SHOPPING CARTS.**  
43

44 **Sec. 6-5001. Purpose.**  
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The City Council find that it is in the public interest to provide for the prompt retrieval of lost, stolen or abandoned shopping carts in order to eliminate blight and improve the image and appearance of the City. It is the purpose of this ordinance to have the owners and operators of businesses providing shopping carts to use the means available to them to deter, prevent or mitigate the removal of shopping carts from their business premises. It is further the purpose of this ordinance to prevent the illegal removal of shopping carts from business premises.

#### **Sec. 6-5002. Declaration of Public Nuisance.**

Shopping carts that have been illegally removed from the premises of businesses and left abandoned on public or private property throughout the City constitute a public nuisance and a potential hazard to the health, safety and welfare of the public. They create conditions of blight in the community, obstruct free access to sidewalks, streets and other public rights-of-way, interfere with pedestrian and vehicular traffic, impede emergency services, and create impediments to the flow of water in drainage systems and other waterways when abandoned in drainage culverts and easements. It is for these reasons such lost, stolen, or abandoned shopping carts are declared to be a public nuisance. This Chapter shall not be the only means of abating shopping cart related nuisances, and may be utilized by the City in lieu of, instead of and/or in addition to another any other ordinance or applicable law.

#### **Sec. 6-5003. Definitions.**

For the purposes of this Chapter, the following terms shall apply:

- (a) "Shopping Cart" shall mean a basket mounted on wheels or a similar device which is generally used in a retail establishment by a customer for the purpose of transportation of goods of any kind.
- (b) "Abandoned" means a Shopping Cart that is left unattended or discarded upon any public or private property other than the premises of the retail establishment from which the Shopping Cart was removed, regardless of whether such Shopping Cart was removed from the premises with the permission of the owner. For purposes of this Chapter, any Shopping Cart left unattended or discarded on any public property shall be presumed abandoned, and any Shopping Cart left unattended or discarded on any private property shall be presumed abandoned unless the owner or occupant of the private property is (i) the owner, employee, or authorized agent of the owner, entitled to possession of said Shopping Cart, (ii) an officer, employee, or agent of a cart retrieval service hired by the owner to retrieve Shopping Carts, or (iii) is enforcement personnel retrieving, storing or disposing of a Cart pursuant to the provisions of this Chapter.
- (c) "Preventative Measures" means a description of the specific measures that the business owner will implement to prevent removal of any cart from the business premises. Such measures may include, but are not limited to:
  - (1) Electronic or other disabling devices on any Cart so they cannot be removed from the business premises;

- 90 (2) Use of courtesy clerks to accompany customers and return Carts to the  
91 inside of the business premises;  
92 (3) Education provided to customers regarding criminal penalties  
93 associated with removal of a Cart from the premises; and  
94 (4) Other demonstrably effective measures likely to prevent removal of  
95 Carts from the business premises.  
96

97 **Sec. 6-5004. Abandoned Shopping Carts Prevention and Retrieval Plan.**  
98

99 Each retail establishment with 10 or more Shopping Carts is hereby required to  
100 develop and implement a specific plan to retrieve its Shopping Carts that are found  
101 throughout the City. All retail establishments must provide, upon request, a cart  
102 prevention and removal plan. Two or more retail establishments may collaborate on a  
103 single plan. Plans must be available upon request, within 60 days of the effective date of  
104 this Chapter, and must include an effective and specific method of retrieving the retail  
105 establishment's Shopping Carts found throughout the City. The plan shall include:

- 106 (a) Owner/Point of Contact Information. The name of the owner/manager; the  
107 physical address where the retail establishment is conducted; and the  
108 name, address, and telephone number(s) of the owner/manager and any  
109 point of contact to call and report an Abandoned Cart, including any  
110 changes of such persons.  
111 (b) Shopping Carts to be maintained on-site. The following are required  
112 measures to contain Shopping Carts on-site. The owner of the retail  
113 establishment may install specific physical measure on the Carts or  
114 implement other measures to prevent Cart removal from business  
115 premises. These measures may include, but are not limited to:  
116 (1) Installing disabling devices on all Carts;  
117 (2) Installing bollards and chains around business entrances/exits to  
118 prevent Cart removal;  
119 (3) Providing Carts for rental or sale that can be temporarily or  
120 permanently used for the purpose of transporting purchases; or  
121 (4) Providing personnel for the purposes of the retrieval of lost, stolen or  
122 abandoned Shopping Carts. Such personnel may be either  
123 employees of the business or one or more independent contractors  
124 hired by the owner to provide Shopping Cart retrieval services, or  
125 combination of both.  
126

127 **Sec. 6-5005. Identification affixed to Carts.**  
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129 Every Shopping Cart made available for use by customer shall affix on each  
130 Shopping Cart, and maintain thereon, legible information identifying the name of the retail  
131 establishment with which it is owned or otherwise associated.

132 **Sec. 6-5006. Employee Training.**

133 The owner/manager of the retail establishment shall communicate the Cart  
134 retrieval plan to new and existing store managers designed to educate such employees  
135 concerning the requirements of the plan and the provisions of State Law prohibiting the

136 unauthorized removal of Shopping Carts from the premises of the retail establishment.

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138 **Sec. 6-5007. New Development Requirements.**

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140 New developments and businesses of over 15,000 square feet in area and having  
141 more than ten (10) Carts shall be required to provide, upon request, a Cart retrieval plan  
142 prior to the issuance of a certificate of occupancy for the facility.  
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144 **Sec. 6-5008. Effective Date; Compliance.**

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146 Within 90 days of the effective date of this Chapter, each retail establishment that  
147 utilizes Shopping Carts in the operation of its business shall affix on each Shopping  
148 Cart, and maintain thereon, information identifying the name of the retail establishment.

149 **Sec. 6-5009. Enforcement.**

150 The provisions of this Chapter shall be enforced by Code Enforcement personnel.  
151 In the enforcement of this Chapter, enforcement personnel may enter upon public  
152 property which the City owns or has a right to enter to examine a Shopping Cart or parts  
153 thereof, or to obtain information as to the identify of a Shopping Cart and remove, or cause  
154 removal of, a Shopping Cart, or parts thereof, declared to be a nuisance pursuant to this  
155 Chapter.  
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157 **Sec. 6-5010. Penalty for Failure to Submit, Modify or Implement Plan.**

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159 Any retail establishment that fails to provide a plan upon request, shall constitute  
160 a violation of this Chapter. Failure to create or implement the plan shall be subject to the  
161 procedure and penalties that follow:

- 162 (a) Once a merchant or point of contact, as specified in the Cart retrieval plan,  
163 has spoken with code enforcement, the merchant has 72 hours to remove  
164 the Carts.  
165 (b) If the City has to remove the Carts, they will be immediately disposed of and  
166 the business fined a recovery fee.  
167 (c) The recovery fees shall be as follows: \$375 for the first Cart and \$125 for  
168 each additional Cart at the same location collected during the same  
169 recovery effort. Failure to pay the recovery fees shall be a violation of this  
170 Chapter.  
171 (d) Failure of any business and/or business owner to provide a Cart retrieval  
172 plan within 24 hours of request shall result in a fine not to exceed \$1,000.  
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174 **Section 2.** It is hereby declared to be the intention of the City Council that: (a) All  
175 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were,  
176 upon their enactment, believed by the City Council to be fully valid, enforceable and  
177 constitutional.

178 (b) To the greatest extent allowed by law, each and every section, paragraph,  
179 sentence, clause or phrase of this Ordinance is severable from every other section,

paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

**Section 3.** All Ordinance and Resolutions in conflict herewith are hereby expressly repealed.

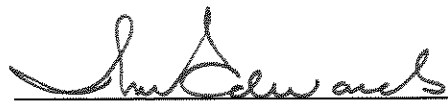
**Section 4.** The City Attorney, City Clerk and contracted City Codifier are authorized to make non-substantive formatting and renumbering edits to this ordinance for proofing, codification, and supplementation purposes. The final version of all ordinances shall be filed with the clerk.

**Section 5.** The effective date of this Ordinance shall be on the date as set forth under Sec. 3.21 of the City Charter unless provided otherwise by applicable local, state and/or federal law.

**Section 6. Instruction to Director:** The Director of the Department of Community Development and Regulatory Affairs is hereby directed to circulate a copy of this Resolution to all Shopping Center within the City promptly following its adoption.

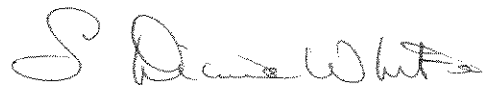
THIS ORDINANCE so adopted this 22<sup>nd</sup> day of October 2019.

**CITY OF SOUTH FULTON, GEORGIA.**



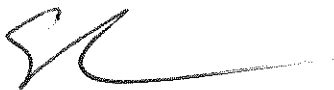
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:



S. DIANE WHITE, CITY CLERK

APPROVED AS TO FORM:



EMILIA C. WALKER, CITY ATTORNEY



224 The foregoing Ordinance No. 2019-030 was moved for approval by Councilmember  
225 Jackson. The motion was seconded by Councilmember Rowell, and being put to a  
226 vote, the result was as follows:

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AYE

NAY

William "Bill" Edwards, Mayor  
Mark Baker, Mayor Pro Tem  
Catherine Foster Rowell  
Carmalitha Lizandra Gumbs  
Helen Zenobia Willis  
Gertrude Naeema Gilyard  
Rosie Jackson  
khalid kamau

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